

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7488 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

BHARATBHAI GANESHBHAI PATEL

Versus

DIRECTOR OF MUNICIPALITIES

Appearance:

MRS YOGINI V PARIKH for Petitioner

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 28/09/1999

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution the petitioner, who is Vice-President of Chanasma Municipality, has challenged the order (Annexure-G) dated 22.9.1999 passed by the Collector, Patan, instructing the Chief Officer to convene the meeting of the Councillors of Chanasma for considering the No Confidence Motion moved against the President and Vice-President of the Municipality under Section 51 of

the Gujarat Municipalities Act (hereinafter referred to as "the Act").

2 On 26.7.1999 14 out of the 21 Councillors of the Municipality moved a motion of No Confidence requesting the President to convene the meeting for considering the motion of No Confidence. Since the President did not convene the meeting within 15 days i.e. by 8.8.1999 and since Vice-President did not convene the meeting within 30 days from the date of receipt of the application requesting for convening the meeting for No Confidence Motion, the Chief Officer of the Municipality submitted a report to the Collector under the provisions of sub-section (2) of Section 51 of the Act. The Collector, however, sent the papers back to the Chief Officer on 2.9.1999 stating that the report was premature as before the Chief Officer could submit the report 30 days time was required to be over from the date the Vice President received the application. Thereafter on 10.9.1999 the Chief Officer submitted a report to the Collector stating that when the Motion of No Confidence with a request to convene the meeting was received, on 26.7.1999 itself the Chief Officer has informed Vice-President to convene the meeting within 30 days but the Vice-President had declined to put his signature on the agenda notice. As against that the petitioner-Vice-President sent a letter dated 10.9.1999 informing the Collector that 30 days' time limit would expire on 8.10.1999 and that, therefore, it was for the petitioner - Vice-President to decide as to when the meeting should be convened. The Collector, however, passed the impugned order convening the meeting of the Municipality on 29.9.1999 to consider the No Confidence Motion against the President and Vice President. It is the aforesaid decision which is under challenge in this petition.

3 The learned counsel for the petitioner has submitted that under the provisions of sub-section (1) of Section 51 the Vice President is entitled to get 30 days time after the President declines to convene a special general meeting for considering a No Confidence Motion. Since the No Confidence Motion was moved on 26.7.1999, the 15 days' time limit would expire on 8.8.1999 and therefore the Vice President had absolute right to decide to convene the meeting within 30 days thereafter and such right could not be taken away till 8.10.1999. In support of the said contention, learned counsel for the petitioner has relied on the provisions of sub-section (2) of Section 51 of the Act.

4 Before dealing with the above contention, it is

necessary to set out the relevant portion of Section 51.

"51. Provisions in regard to meetings of municipality and procedure. The following provisions shall be observed with respect to the meetings of a municipality.

(1) There shall be held four ordinary general meetings in each year for the disposal of general business, in the months of January, April, July and October respectively; and such other ordinary general meetings as the President may find necessary. It shall be the duty of the president to fix the dates for all ordinary general meetings.

(2) The president may, whenever, he thinks fit, and shall, upon written request of not less than one-third of the councillors in the case of a motion of no confidence against the president or vice-president and one-fourth of the councillors in any other case and on a day not later than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this clause the vice-president shall call such a meeting on a day not later than thirty days after the presentation of such request.

Provided that where the president and the vice-president fail to call such meeting, the chief officer shall make a report thereof to the Collector who shall call the meeting on a day not later than thirty days after the presentation of such report."

5 The contention urged on behalf of the petitioner proceeds on an incorrect interpretation of the relevant provision. The period of 30 days which the Vice-President gets for calling a meeting is to start from the date of the presentation of the request of No Confidence Motion by not less than the requisite majority of the Councillors against the President or Vice President. The period of 30 days does not start from the date of expiry of 15 days' period granted to the President. In other words, the President gets 15 days' time from the date of receipt of the written request to call the Special General Meeting for discussing the Motion of No Confidence. Upon expiry of the said 15 days' period, the Vice President gets another 15 days'

time for convening such a meeting. Therefore, in all 30 days in the aggregate is given to the President and Vice-President from the date of receipt of the written request. The petitioner is, therefore, not justified in contending that the Vice-President would get a further period of 30 days after 8.9.1999. In fact, the Vice President was required to convene the meeting by 26.8.1999. That having not been done, the Chief Officer was justified in submitting the report to the Collector and the Collector was therefore justified in convening the meeting as per his impugned order dated 22.9.1999 which was within one month from 10.09.1999 i.e. the date of receipt of the report of the Chief Officer.

6 In view of the above discussion, there is no merit in this petition. The petition is summarily dismissed.

28.09.1999 (M.S. SHAH, J.)

(mohd)
